IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 22 OF 2006

IN

NOTICE OF MOTION NO. 2197 OF 2004

IN

SUIT NO. 2860 OF 2002

ALMAR CO-OPERATIVE HOUSING
SOCIETY LTD. & Ors. ... PETITIONERS

VERSUS

M/S. ALMAR BUILDERS & ESTATE
PVT.LTD. & Ors. ... RESPONDENTS

Mr. P.M.Shah for the petitiioners.
Mr. R.D'mello i/b. A.S.Rai for Respondents 1 & 2.
Mr. Snehal Shah i/b. Narayan & Narayan for Respondents 3 & 7.

CORAM: S.K.SHAH,J.

DATE : 6th October, 2006.

P.C.

1. Heard Counsel on both sides.

2. The contempt is alleged of the order dated 6.5.2005 passed in the Notice of Motion whereby prayer clause (a) of the Notice of Motion was granted. The

grievance is about prayer clause (a)(ii) and (iii) which require to obtain regular water conections to the building and to pay the Municipal taxes and maintenance charges in respect of Shop Nos. 2, 3, 4 and 5 from the period April 1995 to January 2002 and future maintenance. Prayer clause (a)(i) is tothe effect that the Respondent should obtain occupation certificate in respect of 5th, 6th and 7th floors of the building "Almar Apartments". The grievnace is that no regular water connections taken and no Municipal taxes and maintenance charges in respect of the same have been paid.

3. The learned Counsel for the Respondents states that because of the hitch created by one of the unauthorised occupants of the hut, occupation certificate could not be obtained. As a result, regular water connection could not be obtained.

4. As regards prayer clause (a)(iii) - Municipal taxes are concerned, the learned Counsel for the Respondents has produced various tax receipts last receipt dated 12.7.2006 showing that Municipal taxes have been paid.

5. Prayer clause (a)(iii) which is in respect of maintenance charges, the learned Counsel for the petitioners states that the Society has charged twice the rate although they have not been utilising the

services of the Society and in that regard, he has already written to the Society. He further points out that an Appeal against this order has been filed and it is admitted. The grievance therefore will have to be heard by the appellate Court and whatever orders are passed in the Appeal would be complied with. Since there is no time-limit with regard to the payment of maintenance charges is specified, action for contempt cannot be taken. Moreover, the Appeal has been filed.

6. Under the circumstances, I do not find any merit in the Contempt Petition. The Contempt Petition stands disposed of.

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(S.K.SHAH,J.)